

**REMARKS/ARGUMENTS**

In this amendment, claims 1, 6, 7, 9, 14, 24, 28, 30, 33, 34, 39, and 46 are amended; claims 63-72 are new; claims are 2, 3, 12, 15, 16, 25, 26, 29, 35-38, and 51 cancelled, leaving claims 1, 4-11, 13, 14, 17-24, 27, 28, 30-34, 39-50, and 52-72 pending and subject to examination. No new matter in introduced in the amendment. Support for the amendment may be found, for example, in paragraphs [0029], [0043], and [0057] of the instant application.

**Examiner Interview**

Applicant thanks Examiner for the telephonic interview granted on January 27, 2009. Pursuant to M.P.E.P. §713.04, Applicant respectfully submits an Applicant's Summary of Interview as follows. During the interview, the prior art cited in the Office Action mailed on December 18, 2008, and claim 1 was discussed. No agreement was reached.

**Claim Rejections – 35 USC §112**

Claims 6, 7, and 34 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is traversed, however, applicant has amended the claims solely to expedite prosecution of the instant application. Claim 6 has been amended to explicitly make use of the portable device, and claim 7 has been amended to clarify that redemption regards redemption of an item towards an incentive. Claim 34 is similarly amended.

**Claim Rejections – 35 USC §102**

Claims 1-8 and 24-27 were rejected under 35 U.S.C. §102(b) as being anticipated by O'Toole, Jr. et al. (US 2001/0037467). The rejection is traversed.

With respect to independent claim 1, O'Toole does not teach or suggest, *inter alia*, a portable device. O'Toole teaches using a client computer, operated by a user, as recited in

paragraph 3 and shown in figure 3. Therefore, O'Toole does not anticipate claim 1, and all claims dependent therefrom. Claim 1 has been amended to include the subject matter of claims 1 and 2, therefore, the amendment to claim 1 does not require a new search.

With respect to independent claim 24, O'Toole does not teach or suggest, *inter alia*, "a plurality of T&C files and a plurality of parameter files useable to generate T&C statements". O'Toole teaches that terms and conditions of an offer are calculated by a smart digital offer object using formulas that depend on the information contained in the digital coupons and other information examined by the smart digital offer object, as recited in paragraph [0045]. There is no mention by O'Toole of a plurality of T&C files. Therefore, O'Toole does not anticipate claim 24, and all claims dependent therefrom. Claim 24 has been amended to include the subject matter of claims 25 and 26, therefore, the amendment to claim 24 does not require a new search.

Further, with respect to the amendments to claim 1 and 24, O'Toole clearly does not teach or suggest, generating a T&C statement using information that indicates if the T&C statement has been accepted before. This is logical, considering that O'Toole teaches a coupon redemption system. Coupons are typically redeemed once and expire, and thus may only need a one time agreement to T&C. A rewards program, however, can typically last over an extended period of time and require multiple transactions. Thus, a rewards program can require that a T&C statement is modified and accepted multiple times over the term of the program, for example, each time a loyalty transaction takes place, or when a reward is redeemed, which the instant invention can resolve.

Claims 9, 10, 12-23, 35-38, 39-45, and 46-62 were rejected under 35 U.S.C. §102(b) as being anticipated by Iannacci (US 2002/0062249). The rejection is traversed.

With respect to independent claim 9, Iannacci does not teach or suggest, *inter alia*, "sending the T&C information to a distribution channel, wherein the T&C information enables the distribution channel to dynamically generate T&C statements for one or more portable devices for corresponding loyalty transactions". Independent claim 14 recites similar limitations. Iannacci teaches displaying rules and conditions 450 on a display on behalf of a server 410 as recited in paragraphs [0397], and is silent as to how the rules and conditions are

generated. Iannacci merely recites that rules and conditions need to be evaluated before determinations and selections are made from the payment and collection/redemption accounts, [0398]. In the instant application, dynamic generation (of a T&C statement) may include modification of an existing T&C file using parameter files for a T&C statement regarding a specific transaction, as described in at least paragraph [0057]. Also in the instant application, a distribution channel may be a standalone physical point of sale (PPOS) device, an integrated physical point of sale device (PPOS), and a mobile device, as disclosed in paragraph [0029] of the instant application. These claim limitations are not taught or suggested by Iannacci. Therefore, Iannacci does not anticipate claims 9 and 14, and all claims dependent therefrom. Claim 9 has been amended to include the subject matter of claim 12, therefore, the amendment to claim 9 does not require a new search. Claim 14 has been amended to include the subject matter of claims 15 and 16, therefore, the amendment to claim 14 does not require a new search.

With respect to independent claim 39, Iannacci does not teach, *inter alia*, “generating the T&C statement comprises using the portable device information to modify a T&C file with new T&C which are specific to the transaction”, as amended herein. As noted above, Iannacci merely teaches displaying rules and conditions 450 on a display on behalf of a server 410 as recited in paragraphs [0397], and is silent as to how the rules and conditions are generated. Therefore, Iannacci does not anticipate claim 39, and all claims dependent therefrom.

With respect to independent claim 46, for reasons noted above, Iannacci does not teach, *inter alia*, “the distribution channel selects a parameter file from the one or more stored parameter files and a T&C file from the one or more stored T&C files and generates the T&C statement using the selected parameter file and the selected T&C file”. Claim 46 has been amended to remove language which the Office Action cited as making the above claim limitation optional. Therefore, Iannacci does not anticipate claim 46, and all claims dependent therefrom. Claim 46 has been amended to include the subject matter of claim 51, therefore, the amendment to claim 46 does not require a new search.

Claims 28-34 were rejected under 35 U.S.C. §102(b) as being anticipated by Bam et al. (US 2004/0083170). The rejection is traversed.

With respect to independent claim 28, Bam does not teach or suggest, *inter alia*, generating a terms and conditions statement. Bam merely teaches signing up for a rewards program, but gives no details of terms and conditions. Claim 28 has been amended to remove language which the Office Action cited as making claim limitations optional. Therefore, Bam does not anticipate claim 28, and all claims dependent therefrom.

**Claim Rejections – 35 USC §103**

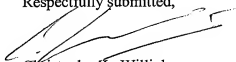
Claim 11 was rejected under 35 U.S.C. §103(b) as being unpatentable over Iannacci as applied to claim 9, and in further view of Thurlow et al. (US 5,917,489). The rejection is traversed. Claim 11 derives patentability from claim 9, and also includes claim limitations which are not taught or suggested in the prior art.

**CONCLUSION**

In view of the foregoing, applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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